

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHELE MAYER, *f.k.a.*
MICHELE GREGERSON,

Plaintiff,

Case No. 2:17-cv-12333
District Judge Laurie J. Michelson
Magistrate Judge Anthony P. Patti

v.

HOWARD N. WEINER,

Defendant.

**OPINION AND ORDER DENYING PLAINTIFF’S MOTION FOR A MORE
DEFINITE STATEMENT (DE 12) and STRIKING PLAINTIFF’S REPLY
TO DEFENDANT’S ANSWER AND REQUEST FOR AN EVIDENTIARY
RESPONSE (DE 17)**

I. OPINION

A. Background

The instant lawsuit stems from Defendant’s representation of Plaintiff in a state court proceeding in which a consent judgment of divorce was entered on October 6, 2006. *Michele Gregerson v. Steven Glen Gregerson*, Case No. 2005-710435-DO (Oakland County Circuit Court). On July 17, 2017, Plaintiff Michele Mayer, *f.k.a.* Michele Gregerson, filed the instant “complaint for legal malpractice” *in pro per* against Defendant Howard N. Weiner, her prior legal counsel. (DE 1.)

Defendant appeared via counsel on August 3, 2017. (DE 6; *see also* DEs 13, 14.) Following the Court's denial of his motion for a more definite statement, he filed an answer. (DEs 7, 11, 15.)

B. Instant Matters

Judge Michelson has referred this case to me for all pretrial proceedings. Currently before the Court are two matters. The first pending matter is Plaintiff's September 21, 2017 motion for a more definite statement. (DE 12.) Despite its title, this filing does not request clarification of a pleading that "is so vague or ambiguous that the party cannot reasonably prepare a response." Fed. R Civ. P. 12(e). Instead, it sets forth several discovery requests, many of which refer to Defendant's August 10, 2017 motion for a more definite statement. (*See* DE 12 at 2-4.)

The second pending matter is Plaintiff's November 17, 2017 filing, which is partially a reply to Defendant's October 16, 2017 answer to the complaint and affirmative and/or special defenses and partially a "request for an evidentiary response by Defendant." (DE 17.) This filing is 10 pages in length, attached to which are approximately 126 pages of exhibits.

II. ORDER

Upon consideration, Plaintiff's motion for a more definite statement (DE 12) is construed as a discovery request and **DENIED**. Aside from the fact that

filing such a document does not properly request discovery as set forth in the relevant rules (*see, e.g.*, Fed. Rules Civ. P. 33 and 34), it does not appear that the parties have conferred as required by Fed. R. Civ. P. 26(d)(1). Moreover, E.D. Mich. LR 26.2(a) provides that discovery material may only be filed in certain circumstances, none of which are present here.

Moreover, Plaintiff's November 17, 2017 filing (DE 17) is **STRICKEN** to the extent it is a reply to Defendants answer, as the Court did not order one; thus, it is not required and otherwise impermissible. Fed. R. Civ. P. 7(a)(7). In addition, this filing is **DENIED** to the extent it is a "request for an evidentiary response by Defendant." If Plaintiff is seeking a follow up to Defendant's answer in the form of discovery, these requests suffer from the same ailments as those discussed above. In fact, upon review, Defendants answer and defenses (DE 15) are appropriate in form and satisfactory under Fed. R. Civ. P. 7(a)(2).

Finally, the parties are **DIRECTED** to hold a telephonic Rule 26(f) conference on or before **Friday, December 15, 2017**, and to submit a discovery plan to the Court under Rule 26(f)(3) on or before **Thursday, December 21, 2017**.

IT IS SO ORDERED.

Dated: November 29, 2017

s/Anthony P. Patti

Anthony P. Patti

UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to parties of record on November 29, 2017, electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the
Honorable Anthony P. Patti